

May 09, 2019

SEAN F. MCVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,
Plaintiff,
v.
ALEX JOSEPH CAMPBELL,
TAMPICO WELL USERS, and
TAMPICO STORE AND CAFÉ,
Defendants.

No. 1:18-cv-03062-SAB

**ORDER RE: FORECLOSURE
SALE**

A hearing was held in the above-captioned matter on May 7, 2019. Brian Donovan appeared on behalf of the Government. Traci Clampitt appeared as a non-party claimant. For the reasons provided in the record, the Court grants the Government's Motion for Order of Foreclosure Sale and to Vacate.

Accordingly, **IT IS HEREBY ORDERED:**

1. The Government's Motion for Order of Foreclosure Sale and to Vacate, ECF No. 18, is **GRANTED**.
2. Craig Thayer, the United States Marshal for the Eastern District of Washington, you are hereby commanded, in accordance with the Court's Judgment and Decree of Foreclosure, ECF No. 15, to sell, as in said judgment directed, the property situated in Yakima County, Washington, more particularly described as follows:
 - a. Lot 1 of Short Plat Recorded in Book 82 of Short Plats, Page 41, as recorded under Auditor's File No. 2642356, Records of Yakima

County, Washington. Situated in Yakima County, State of Washington. Assessor's Parcel Numbers: 161217-22401.

- b. The personal property described and perfected under the above security agreement is as follows:

- i. Oliver 1600 Tractor, S/N 130322-607 9433

- ii. New Holland 425 Baler, S/N 503847

- iii. John Deere BA Grain Drill, S/N 60090

- iv. Hesston 6650 Swather, S/N 665-1251

- v. Ford 3000 Tractor, S/N C461309

- vi. Massey Ferguson M-25 Hay Rake S/N 0006150

- vii International 3BTM Plow

- ### viii. Powder River Calf Squeeze Chute, 2011

- ix Pasture Harross (4 Count) 5'

- x International 10' Disc

- xi Turnbow 16' Stock Trailer S/N D535TUD

- xii GMC Truck 2500 1983 S/N 1GTCK24J3DE711833

(hereinafter collectively the "Real Property" or "Property").

3. You are commanded to provide notice of this Order to Defendant, and any other resident of the Property by hand delivery or by leaving it in a prominent location on the Property. You are further commanded to make return hereon, with your doing thereon indicated, within sixty (60) days after this date.

4. The terms of the Order of Sale shall be as follows:

- a. The United States Marshal for the Eastern District of Washington or his representative will be authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell the Property.

- 1
- 2 b. The Marshal or his representative is authorized to have free access
- 3 to the Property and to take all actions necessary to preserve the
- 4 Property, including, but not limited to, retaining a locksmith or
- 5 other person to change or install locks or other security devices on
- 6 any part of the Property, until the deed to the Property is delivered
- 7 to the ultimate purchaser.
- 8 c. The sale of the real property or personal property shall be free and
- 9 clear any right, title, or interest in Defendants Campbell, Tampico
- 10 Well Users, and Tampico Store & Café, and any other party or
- 11 claimant, except to the extent that Defendant have a right of
- 12 redemption under Wash. Rev. Code § 6.23 or excess funds under
- 13 Wash. Rev. Code § 6.21. The redemption period shall be 12
- 14 months.
- 15 d. The sale shall be subject to building lines, if established; all laws,
- 16 ordinances, and governmental regulations (including building and
- 17 zoning ordinances) affecting the real and personal property; and
- 18 easements and restrictions of record, if any.
- 19 e. The Sale shall be held at the courthouse of the county in which the
- 20 real property is located, on the real property's premises, or at any
- 21 other place in accordance with the provisions of 28 U.S.C. §§ 2001
- 22 and 2002, and shall be announced in the Notice of Sale.
- 23 f. The date and time for sale are to be announced by the United
- 24 States Marshal, or his/her representative, in the Notice of Sale.
- 25 g. The Notice of Sale shall be published once a week for at least four
- 26 (4) consecutive weeks before the sale in at least one newspaper
- 27 regularly issued and of general circulation in Yakima County, and,
- 28 at the discretion of the Marshal or his/her representative, by any

1 other notice deemed appropriate. The notice shall contain a
2 description of the real property and personal property; the time,
3 date, and location of the sale as determined by the United States
4 Marshal or his/her representative; the minimum bid as determined
5 by the United States; and the terms and conditions of sale listed in
6 subparagraphs i-o below.

- 7 h. The minimum bid for the Real Property will be set by the United
8 States. If the minimum bid is not met or exceeded, the Marshal or
9 his/her representative, with concurrence of the United States, may
10 without further permission of this Court, and under the terms and
11 conditions in this order of sale, hold a new public sale, if
12 necessary, and reduce the minimum bid as set by the United States,
13 or sell to the highest bidder.
- 14 i. The successful bidder for the real property shall be required to
15 deposit at the time of the sale with the Marshal, or his/her
16 representative, a minimum of ten percent (10%) of the bid, with
17 the deposit to be made by certified or cashier's check payable to
18 the United States District Court for the Eastern District of
19 Washington, or cash. Before being permitted to bid at the sale,
20 bidders shall display to the Marshal, or his/her representative,
21 proof that they are able to comply with this requirement. No bids
22 will be received from any person(s) who have not presented proof
23 that, if they are the successful bidder(s), they can make the deposit
24 required by this order of sale.
- 25 j. The balance of the purchase price for the real property is to be paid
26 to the United States Marshal within twenty (20) days after the date
27 the bid is accepted, by a certified or cashier's check payable to the

United States District Court for the Eastern District of Washington.
If the bidder fails to fulfill this requirement, the deposit shall be
forfeited and shall be applied to cover the expenses of the sale,
including commissions due under 28 U.S.C. § 1921(c), with any
amount remaining to be applied to the Judgment at issue herein.
The real property shall again be offered for sale under the terms
and conditions of this order of sale, or, in the alternative, sold to
the second highest bidder if consented to by the United States.

- k. The sale of the real property shall be subject to confirmation by this Court. The Marshal shall file a report of sale with the Court, together with a proposed order of confirmation of sale and proposed deed, within thirty (30) days from the date of receipt of the balance of the purchase price.
 - l. On confirmation of the sale, the Marshal shall execute and deliver a deed of judicial sale conveying the real property to the purchaser.
 - m. On confirmation of the sale, all interests in, liens against, or claims to, the real property and appurtenances that are held or asserted by all parties to this action are discharged and extinguished, except to the extent that such Defendant has rights of redemption under RCW § 6.23.
 - n. On confirmation of the sale, the recorder of deeds, Yakima County, Washington, shall cause transfer of the real property and appurtenances to be reflected upon that county's register of title.
 - o. The sale shall be "as is" without warranty of any kind.
5. Order to Vacate Property:
 - a. Until the real property and personal property is sold, all Defendants shall take all reasonable steps necessary to preserve the

1 real and personal property (including all buildings, improvements,
2 fixtures and appurtenances on the real property) in their current
3 condition including, without limitations, maintaining a fire and
4 casualty insurance policy. They shall neither commit waste against
5 the real property nor cause nor permit anyone else to do so. They
6 shall neither do anything that tends to reduce the value or
7 marketability of the real or personal property nor cause nor permit
8 anyone else to do so. They shall not record any instruments,
9 publish any notice, or take any other action (such as running
10 newspaper advertisements or posting signs) that may directly or
11 indirectly tend to adversely affect the value of the real property or
12 that may tend to deter or discourage potential bidders from
13 participating in the public auction, nor shall they cause or permit
14 anyone else to do so.

- 15 b. **All persons occupying the real property shall leave and vacate**
16 **the real property permanently within twenty (20) days of the**
17 **date of this Order**, each taking with them his or her personal
18 property (but leaving all improvements, buildings, fixtures, and
19 appurtenances to the real property). If any person fails or refuses
20 to leave and vacate the property by the time specified in this Order,
21 the United States Marshal's Office is authorized to take whatever
22 action it deems appropriate to remove such person from the
23 premises. Specifically, the United States Marshal (or his/her
24 designee) is authorized and directed to take all actions necessary to
25 enter the real property at any time of the day or night and evict and
26 eject all unauthorized persons located there, including Defendants,
27 or any other occupants. To accomplish this and to otherwise
28

1 enforce this Order, the United States Marshal (or his/her designee)
2 shall be authorized to enter the real property and any and all
3 structures and vehicles located thereon, and to use force as
4 necessary. When the United States Marshal concludes that all
5 unauthorized persons have vacated, or been evicted from the
6 property, he/she shall relinquish possession and custody of the
7 property to the United States, or more specifically the FSA, or its
8 designee. No person shall be permitted to return to the property
9 and/or remain thereon without the express written authorization by
10 the United States Marshal and/or the FSA, and/or the United States
11 Department of Justice, or their respective representatives and/or
12 designees. Unauthorized persons who re-enter the real property
13 during the time this order is in effect may be ejected by the United
14 States Marshal without further order of the Court.

- 15 c. If any person fails or refuses to remove his or her personal property
16 from the real property by the time specified herein, the personal
17 property remaining on the real property thereafter is deemed
18 forfeited and abandoned, and the United States Marshal's Office is
19 authorized to remove it and to dispose of it in any manner it deems
20 appropriate, including sale, in which case the proceeds of the sale
21 are to be applied first to the expenses of sale and the balance to be
22 paid into the Court for further distribution.

23 6. Distribution of Proceeds:

- 24 a. The proceeds arising from sale are to be paid to the Clerk of Court
25 and applied as far as they shall be sufficient to the following items,
26 in the order specified:

- 1 i. To the United States for the costs of the sale, including the
2 costs and commissions of the United States Marshal and any
3 professional auctioneer if retained and the costs of
4 advertising, selling, and conveying the property incurred by
5 the Government.
- 6 ii. To the United States to be applied to the Judgment plus all
7 interest and costs due and owing thereon.
- 8 iii. Any balance remaining after the above payments shall be
9 held by the Clerk's Registry to be disbursed to whoever may
10 be lawfully entitled hereto, including Defendant Tampico
11 Well Users.

12 7. All pending motions are **DENIED** as moot.

13 **IT IS SO ORDERED.** The District Court Executive is hereby directed to
14 file this Order and provide copies to counsel. The District Court Executive is also
15 directed to mail a copy of this Order to Traci Lee Clampitt at 22901 Ahtanum
16 Road, Yakima, Washington 98903.

17 **DATED** this 9th day of May 2019.

A handwritten signature in blue ink that reads "Stanley A. Bastian".

24 Stanley A. Bastian
25 United States District Judge
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